

OLL 83-2383
3 October 1983

MEMORANDUM FOR THE RECORD

SUBJECT: Introduced Legislation Requiring the
Department of Defense (DOD) to Increase
Its Use of Formal Advertising

1. Attached are copies of the 28 September 1983
Congressional Record that announces the introduction of
S. 1904. Please also note that a companion bill--H.R. 4005--
has just been introduced in the House. Both involve
increased DOD use of formal advertising, decreased use of
negotiation, and other issues.

2. The Office of Legislative Liaison will monitor the
progress of this legislation and report further as
appropriate.

STAT
Liaison Division
Office of Legislative Liaison

Attachment
As stated

Distribution:

Original - OLL Record w/att
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LD/OLL (4 October 1983)

S 13104

CONGRESSIONAL RECORD — SENATE

September 28, 1983

bill will go a long way toward resolving those false perceptions and encourage the public to embrace the program with greater confidence.

This bill incorporates the essence of legislation I introduced last year to put into statute that this program will always be totally voluntary but will provide an incentive in the form of reduced postal rates for those businesses who do choose to use the ZIP+4.

The bill forbids the Postal Service from engaging in publicity efforts aimed at those not likely to use ZIP+4, such as each householder, and requires that the delivery standards for the current five-digit ZIP code user not be adversely affected as a result of the implementation of ZIP+4. We feel that such a legislative requirement will prohibit the Postal Service from engaging in publicity which might lead one to believe that he or she must use the new code, which is not true, and will reassure those who choose not to use the expanded code that their mail will not be delayed in order to deliver ZIP+4 mail.

The bill also requires the Postal Service to establish an appropriate system of records to enable mailers to obtain the necessary ZIP+4 code information.

Again, I cannot stress enough the importance of the ZIP+4 program and the resulting automation to the efforts to hold down postal rates. I urge that we move forward with the program. A positive step in that direction is support and passage of this legislation.

By Mr. GRASSLEY (for himself, Mr. PRYOR, Mrs. KASSEBAUM, Mr. PROXMIER, Mr. BOSCHWITZ, and Mr. MELCHER):

S. 1904. A bill to require that the Department of Defense increase the use of formal advertising in the procurement of property and services, to limit the circumstances under which such department may award contracts by negotiation, to establish additional requirements with respect to the negotiation of contracts by such department, and for other purposes; to the Committee on Armed Services.

CREEPING CAPITALISM

Mr. GRASSLEY. Mr. President, we are all aware of the spare-parts overpricing problem. It has been well-documented, and widely publicized. But now it is time to offer solutions to this problem.

The problem of overpricing does not begin and end with spare parts. It applies equally to weapon systems. It is the product of a bureaucracy behaving as a monopoly. All the incentives are structured to insure that we get exactly what we have gotten.

We see the cumulative effects of the problem in the form of an underfunded defense budget. It is a pervasive problem, brought about by the natural tendency of the Pentagon toward centralization, control, and the administering of prices through negotiations.

The system suffers from a lack of competition. Unless competition is brought to bear in the Defense Department, our defense will diminish to a critical degree.

Today Senator PRYOR and I introduce a bill to force the Department of Defense to increase the use of competitive bidding in its purchase of goods and services. It is intended to reverse a many-decades-old trend toward increasing bureaucratization and monopoly within the Defense Department. It is a bill which confronts a problem which has not developed overnight, and therefore cannot be righted overnight.

This bill is an important step in correcting a very serious and longstanding structural deficiency. It is also an important step toward controlling costs and eliminating the underfunding problem in the Defense budget. It would compel DOD to evolve toward an arrangement that is more harmonious with our nationally accepted values when it comes to the production of goods and services. It is a case of bringing DOD business into line with the way the rest of America does business.

Very briefly, the bill would do the following:

It would modestly increase the amount of Defense dollars subject to formal advertising, by 5 percent per year until 70 percent of all funds are competitively bid. The current figure estimated by GAO is roughly 6 percent.

If DOD did not meet its obligation to increase formal advertising by 5 percent in any given year, then the Department's funds for all negotiated contracts would be frozen.

All cost and pricing data, as well as the names of those who negotiate contracts, would be made part of the public domain.

The bill would also eliminate the many loopholes, or exceptions, to formal advertising which presently allow DOD to ignore true competition and instead negotiate contracts.

And the bill would require that formally advertised contracts be rebid at least once every 3 years.

The intention behind this bill is to change the context or the framework that DOD operates in. It would reorient the Pentagon, away from monopoly and centralization, and instead toward free market competition. It is not an attempt to micromanage. Instead, the bill very clearly defines an objective, a set of goals, and a timetable by which to reach those goals. Although it would give the Pentagon a long period of time to learn the art of competition, the bill is adamant about what it would require DOD to do over time.

Those of us who introduce this bill are under no illusions that reversing the ingrained patterns of the Pentagon bureaucracy will be very easy. There is an enormous constituency for business as usual. There will be an

enormous struggle to keep the idea of true competition alive, until more people are deriving benefits from competition than from the present system. Until then, the system will seek to undermine competition as it has in the last several decades. The bureaucracy will seek to preserve the status quo.

The sponsors of this bill represent a good cross section of the political spectrum. Joining Mr. PRYOR and myself are Mrs. KASSEBAUM, Mr. PROXMIER, Mr. BOSCHWITZ, and Mr. MELCHER. Our common interest is a strong defense brought about through the disciplines of competition. We wish to see the Defense Department apply the same principles and values for purchasing goods and services as all other American institutions do. And why do we ask this? For one simple reason: It has stood the test of time. It works.

Mr. PRYOR. Mr. President, I am pleased to join today with the Senator from Iowa (Mr. GRASSLEY) in introducing the Department of Defense Procurement Procedures Act of 1983.

Let me discuss the magnitude of defense procurement. It has been estimated that over 10 million separate contracts or other procurement actions take place each year involving over \$100 billion at the Department of Defense. Every penny is taxpayer money.

It is nothing short of shocking to hear that competition at the Pentagon is limited to only 6 percent of total defense contract dollars. This is very different from the private sector. It would be hard to find a private business in these difficult economic times that failed to seek out the best possible deal in buying services or supplies. For that matter, it would be hard to find a householder who does not do at least a little shopping around.

Any self-respecting agent in charge of purchases would test the market, ask for competitive bids and then render a judgment based on cost and quality.

Why has the Pentagon not brought its procurement practices into line? One assumption is that competition is regarded among professional defense people as a troubling annoyance and its absence can always be covered up by redtape and doubletalk. More cynical is the nagging possibility that contracts, and especially follow-ons, are simply a part of the buddy system that works its way through the military-industrial maze. Both views are commonly held by the public.

In fairness to the Pentagon, it should be noted that official explanations have been suggested by the General Accounting Office and the Office of Federal Procurement Policy. According to their studies, the absence of purchase descriptions, plus the presence of unnecessarily restrictive specifications, discourage competition. Moreover, procurement officers sometimes fail to undertake market analyses and find new suppliers.

S 13105

CONGRESSIONAL RECORD — SENATE

September 28, 1983

The least appealing of the official suggestions is that many sole-source contracts are awarded in response to unsolicited proposals. This is no excuse, but it may offer an explanation. An enterprising salesman calls on a Pentagon official, for example, argues convincingly that troops need a new flashlight for high humidity and dense foliage, and then shows his product is one logical possibility. The sale is final before a contract is even signed.

Studies cited by the General Accounting Office have shown that competition can save 20 percent of the cost. In addition, if the Defense Department were to spread the money around it would broaden the base of defense production. This could be especially important at the present time as we enter what may be a major buildup in defense production and expenses become inflated more than ever.

Finally, competition is only right. Why should the Pentagon continue to operate according to rules of its own when other budgets are drastically cut across-the-board? Government practices aside, competition has been standard procedure in the private sector for years. There is no reason it should not be followed in military spending.

Pentagon officials need to learn what so many American merchants and managers have known for years—that competition is good business in both quality and cost. It is a lesson the Pentagon has either failed to learn or is unwilling to accept.

Mr. President, I ask that a summary of the major features of the bill be placed in the Record at this point.

There being no objection, the summary was ordered to be printed in the Record, as follows:

SUMMARY

1. It would nudge up the amount of defense contract dollars that are competitively bid. According to GAO, less than six percent of defense contract dollars are subject to true competitive bidding. This bill would add five percent to that figure each year until the total amount of defense dollars subject to competitive bidding reached 70 percent.
2. If the aggregate amount of purchases through competitive bidding does not reach the amount required through this bill, then all funds for negotiated contracts may not be obligated or expended.
3. Competitive bidding is defined as "formal advertising" as described in Title 10, Section 2305 of the United States Code. Under Section 2304, 17 exceptions to formal advertising are listed. This bill would eliminate twelve of those exceptions, and tighten the rest where appropriate. The general thrust is to eliminate all loopholes that enable contracts to be negotiated or competitively negotiated rather than competitively bid.
4. All cost and pricing data of negotiated contracts would be made part of the public domain. The names of each officer or employee of the Government who participates

in the decision to negotiate a contract, or who participates in the awarding of a negotiated contract should be made part of the public domain.

5. DoD contracts that are required to be made by formal advertising must be re-bid at least once every three years.

By Mr. BAUCUS (for himself, Mr. MELCHER, Mr. INOUYE, Mr. BENTSEN, Mr. BAKER, and Mr. BYRD):

S. 1905. A bill to authorize funds for the Maureen and Mike Mansfield Foundation; to the Committee on Labor and Human Resources.

MAUREEN AND MIKE MANSFIELD FOUNDATION

Mr. BAUCUS. Mr. President, I am today introducing a bill to establish the Maureen and Mike Mansfield Foundation. This foundation has been created to support two important organizations: the Mansfield Center for Pacific Affairs and the Maureen and Mike Mansfield Center at the University of Montana.

Together, these two centers will honor the career of Mike Mansfield, the longest-serving majority leader in the history of the U.S. Senate. Currently, the American Ambassador to Japan, Mike Mansfield, is truly an American statesman and a world leader.

The centers also honor the contributions of Mike's wife, Maureen Mansfield. As Mike said upon his retirement from the Senate, "My conclusion has been reached in this instance with my wife, Maureen Hayes Mansfield, who has been with me through all these years and whose sensitive counsel, deep understanding, and great love have been so much a part of whatever may be the sum of my contribution."

The Mansfield Center for Pacific Affairs, to be constructed at Flathead Lake in northwestern Montana, will bring leaders in business, government, and cultural affairs from nations of the Pacific to participate in conferences and seminars on the developing economic and cultural ties in this region. We expect that the center will host more than 60 such meetings each year on subjects ranging from agricultural trade to educational exchange programs.

The center's progress is keyed to the unparalleled growth which has characterized trade in the Pacific basin during the past two decades. This growth is expected to continue into the 21st century. The center will work to foster economic growth through trade, and will also be a leader in improving international understanding and in eliminating cultural barriers which have impeded exchanges across the Pacific.

The Maureen and Mike Mansfield Center at the University of Montana will conduct academic programs related to Pacific area studies, ethics, and public affairs. The university programs will open new opportunities for research and study, and attract leaders from academic and public life.

These two centers will sponsor cooperative programs designed to build upon their complementary relationships, such as hosting major conferences on Pacific area political, cultural, and trade relations.

The State of Montana has appropriated \$1 million to the Mansfield Foundation, which will coordinate fundraising activities for these two centers. This bill authorizes an additional \$5 million to be appropriated from Federal funds, as a one-time appropriation to help establish the centers.

The foundation will seek additional funds from individual donors, and we expect substantial donations from Japanese and other Pacific sources, once Ambassador Mansfield retires from his post in Japan.

I believe it is fitting and proper that the United States should honor Mike Mansfield in this way. These two centers will honor his career by supporting and continuing his lifelong efforts to achieve close relations with Pacific nations in every sense.

Mr. President, many friends of Mike and colleagues of ours have joined in this effort. The majority leader (Mr. BAKER) and the minority leader (Mr. BYRD) served on the founding committee for the foundation, along with Senator DANNY INOUYE, the late Senator "Scoob" JACKSON, and House Speaker TIP O'NEILL.

Stan Kimmitt, former Secretary to the Senate, served on the initial planning group and is a member of the board of the Mansfield Foundation. The foundation is chaired by Hon. Ted Schwinden, Governor of Montana.

Mr. President, with the support of the leadership, I hope to pass this bill soon, possibly attached to another measure moving through Congress. And I plan to ask the Senate to include funds for this important foundation in the 1984 labor appropriations bill. I hope my colleagues will want to support this effort, to honor Mike Mansfield and to continue the important work he has started.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1905

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. The Secretary of Education is authorized to provide financial assistance in accordance with the provisions of this Act to the Maureen and Mike Mansfield Foundation to assist in the development of the Mansfield Center for Pacific Affairs and the Maureen and Mike Mansfield Center at the University of Montana.

SEC. 2. No financial assistance provided by this Act may be made, except upon an application at such time, in such manner, and containing such information as the Secretary of Education may require.

SEC. 3. There are authorized to be appropriated such sums, not to exceed \$5,000,000, as may be necessary to carry out the provi-